IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISCELLANEOUS APPLICATION NO. 19 OF 2004

Mr. Thomas Fernandes,
son of Mr. Basilio Fernandes,
resident of House No.396,
Majorda, Salcete-Goa. ... Applicant

versus

1. State of Goa

2. Police Inspector,
Colva Police Station.

3. Francis Coelho,
resident of Majorda,
Goa. ... Respondents

Mr. Arun Bras De Sa, Advocate for the Applicant.

Mr. S. N. Sardessai, Public Prosecutor for the State/Respondent No.1.

CORAM : V. M. KANADE, J.

DATE : 23RD JUNE, 2005.

ORAL JUDGMENT

The Applicant is challenging the Order passed by the District & Sessions Court, South Goa at Margao, in Criminal Miscellaneous Application No. 19 of 2003. By the said Order dated 12th January, 2004, the learned District & Sessions Court at Margao

was pleased to cancel the Bail which was granted to the Applicant and directed him to be remanded to judicial custody. Against the said Judgment and Order, the Applicant preferred this Criminal Miscellaneous Application. By Order dated 16th January, 2004, this Court was pleased to grant an Order of stay to the Order passed by the learned Sessions Judge who had cancelled the Bail of the Applicant.

2. The learned Counsel appearing on behalf of the Applicant has submitted that the trial in the Sessions Court is almost over and Judgment is likely to be pronounced in the first week of July, 2005.

3. Since the trial is over and the Judgment is to be pronounced, the Order passed by the District & Sessions Court, South Goa at Margao, in Criminal Miscellaneous Application No. 19 of 2003, therefore, has practically become infructuous since the Applicant in the meantime was granted interim stay of the Order of the Sessions Court. The Applicant, therefore, has not surrendered to judicial custody in view of the interim Order passed by this Court on 16th January, 2004. The Applicant in the meantime, has faced the trial and has not absconded nor has tamperd with the witnesses. Even otherwise, after having perused the Order passed by the District & Sessions Court, South Goa at Margao no case has been made out for cancellation of Bail which

was already granted by the Court earlier before the Order of cancellation was passed.

4. Under the facts and circumstances of the case, the Order passed by the District & Sessions Court, South Goa at Margao, in Criminal Miscellaneous Application No. 19 of 2003 is quashed and set aside and the Criminal Miscellaneous Application is allowed in the above terms.

V. M. KANADE, J.

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